



DOCKET FILE COPY ORIGINAL

Fred K. Konrad  
Director  
Federal Relations

September 8, 1993

EX PARTE OR LATE FILED

Mr. William Caton  
Acting Secretary  
Federal Communications Commission  
Room 222  
1919 M Street N.W.  
Washington, D.C. 20554

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SEP - 8 1993

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: Ex Parte Statement  
CC Docket No. 92-296

Dear Mr. Caton:

On September 7, 1993, Mr. Richard N. Janney, Vice-President-Regulatory, Ameritech, and I met in separate sessions with Commissioner Andrew Barrett and his Special Advisor, Mr. Jeffrey Hoagg, Commissioner Ervin Duggan and his Legal Advisor, Ms. Linda Oliver, and Mr. Brian Fontes, Senior Advisor to Acting Chairman James Quello to discuss Ameritech's views on the subject of the above captioned proceeding, depreciation prescription simplification. The attached material provided the basis of our discussions.

Ameritech believes that reform of the processes by which local exchange carriers are regulated has not kept pace with the development of competition in our businesses. In particular, expanded interconnection of both special and now switched access services has produced a significant increase in our competitors' opportunities. Recent announcements of major alliances directed at provision of alternative local exchange services demonstrate the reality and scale of the competition we will experience. Yet, with respect to depreciation, we are still regulated as we were before these developments.

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Ameritech urges the Commission to take decisive action now to strike a better balance between its pro-competition initiatives and its regulation of incumbent local exchange carriers. We recommend that the Commission adopt Option D of this Notice of Proposed Rulemaking. This option accomplishes real reform by assigning responsibility for establishing depreciation rates to the local exchange carriers, subject to the authority and oversight of the Commission. Options A through C offer the appearance of reform, but will accomplish only miniscule movement from the arcane and overly directive procedures with which we must currently comply.

As stated in the rulemaking, Option D calls for the filing of depreciation rates with "no supporting data". Ameritech suggests in the alternative that the burden for determining the content of supporting data provided to justify proposed changes in rates should rest with the carriers. The burdensome and arbitrary procedures which exist today exceed the requirements of the Code of Federal Regulations, Article 43.43, and should not be mandatory. Proposed rates should be treated as presumptively proper and be modified only if the proof provided by the filing is insufficient or if the weight of other evidence clearly proves the changes to be improper.

Some have argued that the states rely on the Commission's detailed methodology to provide direction for intrastate rate determinations. In fact, the states have only very occasionally relied on the interstate analysis as evidenced by the differences which exist between state and interstate depreciation rates today. There is just no basis to require the companies to file information at the federal level for the possible use of some state commissions for some accounts some of the time.

Finally, Ameritech believes that experience clearly demonstrates that the local exchange carriers are not motivated to "game" depreciation expenses to minimize or eliminate sharing obligations under price cap regulation. The total 1992 sharing obligation of the price cap local exchange carriers was \$38.4M, yet rates were reduced overall by \$219.6M. These reductions would have been made regardless of the outcome of sharing calculations based on earnings levels because of competitive market conditions and NECA requirements. Furthermore, the sophisticated customers of these services are fully capable of recognizing and objecting to such "gaming" if it occurs.

For these reasons, Ameritech recommends that the Commission adopt Option D with filing requirements as described herein.

Sincerely,

A handwritten signature in black ink, appearing to read "Fred Komosh". The signature is fluid and cursive, with a long horizontal stroke at the end.

cc: Acting Chairman Quello  
Commissioner Barrett  
Commissioner Duggan  
Mr. Fontes  
Mr. Hoagg  
Ms. Oliver

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**SEP - 8 1993**

**FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY**

**CC DOCKET 92-296**

**SIMPLIFICATION OF THE DEPRECIATION PRESCRIPTION PROCESS**

**AMERITECH**

**September, 1993**

**SIMPLIFICATION OF THE DEPRECIATION PROCESS IS NECESSARY IN LIGHT OF THE TECHNOLOGICAL, REGULATORY, AND MARKETPLACE CHANGES IN THE TELECOMMUNICATIONS INDUSTRY.**

**The current process:**

- A. Requires significant staff involvement in Company and at FCC**
- B. Price Caps no longer uses a revenue requirement concept to set rates. The formula for establishing rates uses only the variables of inflation and productivity.**
- C. Applies only to the interstate portion of Capital Recovery**
  - the interstate market for the Local Exchange Companies is Access**
  - Access customers are sophisticated Carriers such as AT&T, MCI, and SPRINT**
  - the intrastate market for the LECs is a service offered directly to consumers.**

THE PRICE CAP OPTION IS THE MOST APPROPRIATE METHOD FOR SETTING DEPRECIATION RATES, GIVEN THE STRIDES THE COMMISSION HAS MADE IN ACHIEVING PUBLIC INTEREST REGULATORY CHANGES.

The advantages of the Price Cap Option are:

- A. Significant savings, both for FCC and Company
- B. Consistent with Price Cap orders where the FCC has determined that companies are responsible for their investment decisions, and therefore depreciation rate changes are endogenous.
- C. "Earnings manipulation" is not feasible
  - 1) Rate changes are retroactive to first of year, and rate submission is early in year
  - 2) No credible incentive on part of company
    - if "too low", give back half in "sharing"
    - if "too high", merely lowers earnings without price impact
  - 3) FCC review and prescription
  - 4) GAAP / SEC / Audits
  - 5) Tracking and reporting via ARMIS (Automated Reporting Management Information System) to the FCC allows industry benchmarking and identifies changes from history.
  - 6) FCC will still receive information underlying the depreciation rates chosen by the company...life, salvage, and reserve elements, current and proposed rates, and accrual changes

IF THE PRICE CAP OPTION IS NOT CHOSEN BY THE COMMISSION, MANY OF THE BENEFITS OF REFORM WILL BE LOST TO ALL PARTIES. HOWEVER, REFORM OF THE PROCESS IS STILL REQUIRED.

If the Commission should choose the Range of Rates option ("Option B"):

- A. Savings in administrative expenses are undermined
- B. Narrow ranges are inconsistent with the dynamic development in the market today (e.g. McCaw/AT&T, Cable entry into telco, liberal interconnection orders, etc.)

If the Commission chooses the Range of Factors option ("Option A"):

- A. Savings are diminished even further than under Option B
- B. Narrow ranges perpetuate the same problems as Option B

If the Commission selects the Depreciation Schedule option ("Option C"):

- virtually no simplification results from this exercise.

OPPOSITION TO THE PRICE CAP OPTION, AND INDEED TO ANY OF THE REFORMS  
THE COMMISSION RECOGNIZES AS NECESSARY, IS AS EXPECTED, AND IS FROM  
THE EXPECTED COMMENTORS

- A. Competitors...self serving arguments to tie Ameritech to  
outmoded regulation, with delays and costs inherent in  
process
- B. State PUCs...but State PUCs are free under Louisiana v. FCC  
to set their own rates and demand their own methods. This  
NPRM is for interstate depreciation rates only.

## **DEPRECIATION EXPENSE**

### **THE CONTROL TRIAD**

- . The greatest inhibitor to gaming the depreciation process is the Marketplace.
- . The interstate Access market is competitive today, and the degree of competition is accelerating:
  - Special Access Interconnection
  - Switched Access Interconnection
  - AT&T/McCaw
  - Cable
- . If we claim too much depreciation expense, our prices will be too high. If our prices are too high, we lose our customers to the competition.
- . If we set our depreciation rates too low, we do not recover our investment. Our investors will leave us for companies that manage their business better.
- . Therefore our depreciation expenses come under a triad of scrutiny:
  - the FCC Staff
  - the competitive marketplace
  - the very capable and sophisticated customers



**9/03/93      Data Compiled from The April 2, 1993 Price Cap Filings  
(In Millions)**

	<b><u>1992 Sharing</u></b>	<b><u>Rate Change</u></b>
<b>Ameritech *</b>	<b>(\$14.3)</b>	<b>(\$70.3)</b>
<b>Bell Atlantic</b>	<b>(8.3)</b>	<b>(53.1)</b>
<b>Bell South</b>	<b>(11.6)</b>	<b>51.4</b>
<b>GTE Service</b>		
<b>GTE</b>	<b>(7.7)</b>	<b>(3.4)</b>
<b>Contel</b>	<b>18.1</b>	<b>(2.6)</b>
<b>Lincoln</b>	<b>NA</b>	<b>(0.6)</b>
<b>NYNEX</b>	<b>(1.7)</b>	<b>(96.3)</b>
<b>PACTEL</b>	<b>(5.6)</b>	<b>(23.0)</b>
<b>Rochester</b>	<b>0.0</b>	<b>(1.1)</b>
<b>SNET</b>	<b>0.0</b>	<b>(11.9)</b>
<b>Southwestern</b>	<b>0.0</b>	<b>53.2</b>
<b>US West</b>	<b>0.0</b>	<b>(57.4)</b>
<b>United</b>	<b>(7.3)</b>	<b>4.3</b>
<b>Centel</b>	<b>NA</b>	<b>(8.8)</b>
<b>Total</b>	<b>(38.4)</b>	<b>(219.6)</b>

**\* In addition, \$37 million of Ameritech General Support Facilities costs were reallocated to end users, further reducing access charges to interexchange carriers.**

**WESTLAW ELECTRONIC RESEARCH**

Telecommunications cases: 372k[add key number].

See, also, WESTLAW guide following the Explanation pages of this volume.

**§ 220. Accounts, records, and memoranda****(a) Forms**

The Commission may, in its discretion, prescribe the forms of any and all accounts, records, and memoranda to be kept by carriers subject to this chapter, including the accounts, records, and memoranda of the movement of traffic, as well as of the receipts and expenditures of moneys.

**(b) Depreciation charges**

The Commission shall, as soon as practicable, prescribe for such carriers the classes of property for which depreciation charges may be properly included under operating expenses, and the percentages of depreciation which shall be charged with respect to each of such classes of property, classifying the carriers as it may deem proper for this purpose. The Commission may, when it deems necessary, modify the classes and percentages so prescribed. Such carriers shall not, after the Commission has prescribed the classes<sup>1</sup> of property for which depreciation charges may be included, charge to operating expenses any depreciation charges on classes of property other than those prescribed by the Commission, or, after the Commission has prescribed percentages of depreciation, charge with respect to any class of property a percentage of depreciation other than that prescribed therefor by the Commission. No such carrier shall in any case include in any form under its operating or other expenses any depreciation or other charge or expenditure included elsewhere as a depreciation charge or otherwise under its operating or other expenses.

**(c) Access to information; burden of proof**

The Commission shall at all times have access to and the right of inspection and examination of all accounts, records, and memoranda, including all documents, papers, and correspondence now or hereafter existing, and kept or required to be kept by such carriers, and the provisions of this section respecting the preservation and destruction of books, papers, and documents shall apply thereto. The burden of proof to justify every accounting entry questioned by the Commission shall be on the person making, authorizing, or requiring such entry and the Commission may suspend a charge or credit pending submission of proof by such person. Any provision of law prohibiting the disclosure of the contents of messages or

communications shall not be deemed to prohibit the disclosure of any matter in accordance with the provisions of this section.

**(d) Penalty for failure to comply**

In case of failure or refusal on the part of any such carrier to keep such accounts, records, and memoranda on the books and in the manner prescribed by the Commission, or to submit such accounts, records, memoranda, documents, papers, and correspondence as are kept to the inspection of the Commission or any of its authorized agents, such carrier shall forfeit to the United States the sum of \$6,000 for each day of the continuance of each such offense.

**(e) False entry; destruction; penalty**

Any person who shall willfully make any false entry in the accounts of any book of accounts or in any record or memoranda kept by any such carrier, or who shall willfully destroy, mutilate, alter, or by any other means or device falsify any such account, record, or memoranda, or who shall willfully neglect or fail to make full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of the carrier, shall be deemed guilty of a misdemeanor, and shall be subject, upon conviction, to a fine of not less than \$1,000 nor more than \$5,000 or imprisonment for a term of not less than one year nor more than three years, or both such fine and imprisonment: *Provided*, That the Commission may in its discretion issue orders specifying such operating, accounting, or financial papers, records, books, blanks, or documents which may, after a reasonable time, be destroyed, and prescribing the length of time such books, papers, or documents shall be preserved.

**(f) Confidentiality of information**

No member, officer, or employee of the Commission shall divulge any fact or information which may come to his knowledge during the course of examination of books or other accounts, as hereinbefore provided, except insofar as he may be directed by the Commission or by a court.

**(g) Use of other forms; alterations in prescribed forms**

After the Commission has prescribed the forms and manner of keeping of accounts, records, and memoranda to be kept by any person as herein provided, it shall be unlawful for such person to keep any other accounts, records, or memoranda than those so prescribed or such as may be approved by the Commission or to keep the accounts in any other manner than that prescribed or approved by the Commission. Notice of alterations by the Commission in the required manner or form of keeping accounts shall be

given to such persons by the Commission at least six months before the same are to take effect.

(b) *Exempted regulation by State commission*

The Commission may classify carriers subject to this chapter and prescribe different requirements under this section for different classes of carriers, and may, if it deems such action consistent with the public interest, except the carriers of any particular class or classes in any State from any of the requirements under this section in cases where such carriers are subject to State commission regulation with respect to matters to which this section relates.

(c) *Consultation with State commissions*

The Commission, before prescribing any requirements as to accounts, records, or memoranda, shall notify each State commission having jurisdiction with respect to any carrier involved, and shall give reasonable opportunity to each such commission to present its views, and shall receive and consider such views and recommendations.

(d) *Report to Congress on need for further legislation*

The Commission shall investigate and report to Congress as to the need for legislation to define further or harmonize the powers of the Commission and of State commissions with respect to matters to which this section relates.

(June 19, 1934, c. 652, Title II, § 220, 48 Stat. 1078; Dec. 19, 1909, Pub.L. 101-239, Title III, § 3002(G), 103 Stat. 2131.)

<sup>1</sup>So in original. Probably should be "classes".

## HISTORICAL AND STATUTORY NOTES

**Revisions Notes and Legislative Reports** **Amendments**  
1909 Act, House Report No. 101-247, 1909 Amendment, Subsec. (d), House Conference Report No. 101-386, Pub.L. 101-239 increased penalty from and Statement by President, see 1909 §500 to \$4,000 per day of continuance of U.S.Code Cong. and Adm.News, p. 1906, offense.

## LIBRARY REFERENCES

**Administrative Law**  
Preservation of records of communications common carriers, see 47 C.F.R. § 42.01 et seq.  
Reports of communications common carriers and certain affiliates, see 47 C.F.R. § 43.01 et seq.  
**American Signal System**  
Regulation of telecommunications business, see Telecommunications §164 et seq., 332 et seq., 362 et seq., 411 et seq.  
**Encyclopedia**  
Regulation of telecommunications business, see C.J.S. Telegraphs, Telephones, Radios, and Television §§ 74 et seq., 90, 290 to 301, 316.  
**Forms**  
Sentences and Fines, see West's Federal Forms § 7531 et seq.

**§ 42.43**

**Reports of proposed changes in depreciation rates.**

(a) Each communication common carrier with annual operating revenues of \$100 million or more and which has been found by the Commission to be a dominant carrier with respect to any communications service shall, before making any change in the depreciation rates applicable to its operated plant, file with the Commission a report furnishing the data described in the subsequent paragraphs of this section, and also comply with the other requirements thereof.

(b) Each such report shall contain the following:

(1) A schedule showing for each class and subclass of plant (whether or not the depreciation rate is proposed to be changed) an appropriate designation therefor, the depreciation rate currently in effect, the proposed rate, and the service-life and net-salvage estimates underlying both the current and proposed depreciation rates.

(2) An additional schedule showing for each class and subclass, as well as the totals for all depreciable plant, (i) the book cost of plant at the most recent date available, (ii) the estimated amount of depreciation accruals determined by applying the currently effective rate to the amount of such book cost, (iii) the estimated amount of depreciation accruals determined by applying the rate proposed to be used to the amount of such book cost, and (iv) the difference between the amounts determined in paragraphs (b)(2)(ii) and (iii) of this section;

(3) A statement giving the reasons for the proposed change in each rate;

(4) A statement describing the method or methods employed in the development of the service-life and salvage estimates underlying each proposed change in a depreciation rate;

(5) The date as of which the revised rates are proposed to be made effective in the accounts.

(c) When the change in the depreciation rate proposed for any class or subclass of plant (other than one occasioned solely by a shift in the relative investment in the several subclasses of the class of plant) amounts to twenty percent (20%) or more of the rate cur-

**47 CFR Ch. I (10-1-91 Edition)**

rently applied thereto, or when the proposed change will produce an increase or decrease of one percent (1%) or more of the aggregate depreciation charges for all depreciable plant (based on the amounts determined in compliance with paragraph (b)(2) of this section), the data required by paragraph (b) of this section shall be supplemented by copies of the underlying studies, including calculations and charts, developed by the carrier to support service-life and net-salvage estimates. *Provided, however,* That if compliance with this requirement involves substantial of a large volume of data of a repetitive nature, only a fully illustrative portion thereof need be filed.

(d) Each report shall be filed in duplicate and the original shall be signed by the responsible official to whom correspondence related thereto should be addressed.

(e) Unless otherwise directed or approved by the Commission, the following shall be observed: Proposed changes in depreciation rates shall be filed at least ninety (90) days prior to the last day of the month with respect to which the revised rates are first to be applied in the accounts (e.g., if the new rates are to be first applied in the depreciation accounts for September, they must be filed on or before July 1); and such rates may be made retroactive to a date not prior to the beginning of the year in which the filing is made. *Provided, however,* That in no event shall a carrier for which the Commission has prescribed depreciation rates make any changes in such rates unless the changes are prescribed by the Commission.

(f) Any changes in depreciation rates that are made under the provisions of paragraph (e) of this section shall not be construed as having been approved by the Commission unless the carrier has been specifically so informed.

128 FR 13314, Dec. 5, 1993, as amended at 30 FR 3223, Mar. 9, 1965; 53 FR 49867, Dec. 13, 1988

**§ 42.51 Contracts and concessions.**

(a) Any communications common carrier engaged in domestic or foreign communications, or both, which has

**Federal Communications Commission**

**§ 42.51**

not been classified as non-dominant pursuant to § 61.3 of the Commission's rules, 47 CFR 61.3, is not treated under the regulatory forbearance policies established by the Commission, and which enters into a contract with another carrier, including an operating agreement with a communications entity in a foreign point for the provision of a common carrier service between the United States and that point, must file with the Commission, within thirty (30) days of execution, a copy of each contract, agreement, concession, license, authorization, operating agreement or other arrangement to which it is a party and amendments thereto with respect to the following:

(1) The exchange of services;

(2) Except as provided in paragraph (c) of this section, the interchange or routing of traffic and matters concerning rates, accounting rates, division of tolls, or the basis of settlement of traffic balances; and

(3) The rights granted to the carrier by any foreign government for the landing, connection, installation, or operation of cables, land lines, radio stations, offices, or for otherwise engaging in communications operations.

(b) If the agreement referred to in this section is made other than in writing, a certified statement covering all details thereof must be filed by at least one of the parties to the agreement. Each other party to the agreement which is also subject to these provisions may, in lieu of also filing a copy of the agreement, file a certified statement referencing the filed document. The Commission may, at any time and upon reasonable request, require any communication common carrier classified as non-dominant and treated with forbearance, and therefore not subject to the provisions of this section, to submit the documents referenced herein.

(c) With respect to contracts coming within the scope of paragraph (a)(3) of this section between subject telephone carriers and connecting carriers, except those contracts related to communications with foreign or overseas points, such documents shall not be filed with the Commission; but each subject telephone carrier shall maintain a copy of such contracts to which

it is a party in appropriate files at a central location upon its premises, copies of which shall be readily accessible to Commission staff and members of the public upon reasonable request thereof; and upon request by the Commission, a subject telephone carrier shall promptly forward individual contracts to the Commission.

(d) *International Settlements Policy.* (1) If a carrier files an operating agreement (whether in the form of a contract, concession, license, etc.) referred to in § 43.51(a) to begin providing switched voice, telex, telegraph, or packet-switched service between the United States and a foreign point and the terms and conditions of such agreement relating to the exchange of services, interchange or routing of traffic and matters concerning rates, accounting rates, division of tolls, or the basis of settlement of traffic balances, are not identical to the equivalent terms and conditions in the operating agreement of another carrier providing the same or similar service between the United States and the same foreign point, the carrier must also file with the Common Carrier Bureau a notification letter or waiver request, as appropriate, under § 64.1001 of this chapter.

(2) If a carrier files an amendment to the operating agreement referred to in § 43.51(a) under which it already provides switched voice, telex, telegraph, or packet-switched service between the United States and a foreign point, and other carriers provide the same or similar service to the same foreign point, and the amendment relates to the exchange of services, interchange or routing of traffic and matters concerning rates, accounting rates, division of tolls, or the basis of settlement of traffic balances, the carrier must also file with the Common Carrier Bureau a notification letter or waiver request, as appropriate, under § 64.1001 of this chapter.

151 FR 46606, Dec. 23, 1994, as amended at 56 FR 26371, June 4, 1991

Account	12/31/92 Investment (\$M)	1992 FR Accruals (\$M)	FCC Rate	PUCs Rate
<b>ILLINOIS</b>				
Computer Systems	317.5	52.0	17.5%	17.1%
Analog – ESS	767.3	63.6	6.8%	7.8%
Digital – ESS	1,131.4	71.2	6.9%	6.6%
Circuit – Analog	125.8	16.4	11.8%	9.6%
Circuit – Digital	970.4	93.2	9.8%	9.9%
Underground Metal	787.5	32.1	3.5%	4.2%
Buried Metal	1,074.1	52.4	5.0%	5.0%
	<b>5,174.0</b>	<b>380.9</b>		
<b>INDIANA</b>				
Computer Systems	138.7	21.3	9.6%	17.2%
Analog – ESS	246.4	23.1	12.1%	7.7%
Digital – ESS	392.0	29.5	6.8%	8.5%
Circuit – Analog	77.7	10.7	11.9%	12.7%
Circuit – Digital	354.9	41.1	10.3%	12.9%
Underground Metal	215.7	12.8	4.3%	6.5%
Buried Metal	412.7	21.8	5.4%	5.4%
	<b>1,838.1</b>	<b>160.3</b>		
<b>MICHIGAN</b>				
Computer Systems	202.2	23.5	13.1%	11.9%
Analog – ESS	606.8	80.7	13.1%	12.0%
Digital – ESS	880.2	59.5	7.3%	7.3%
Circuit – Analog	158.3	27.6	13.4%	13.6%
Circuit – Digital	1,238.6	113.0	9.3%	9.9%
Underground Metal	636.7	33.2	4.9%	5.1%
Buried Metal	1,255.9	61.2	4.5%	4.5%
	<b>4,978.7</b>	<b>398.7</b>		
<b>OHIO</b>				
Computer Systems	199.2	25.7	11.8%	13.8%
Analog – ESS	436.4	35.9	19.7%	6.2%
Digital – ESS	732.6	49.8	6.8%	7.5%
Circuit – Analog	127.7	14.3	9.0%	9.3%
Circuit – Digital	744.2	67.5	9.0%	9.3%
Underground Metal	429.6	17.0	3.7%	4.0%
Buried Metal	523.0	21.8	4.8%	4.4%
	<b>3,192.7</b>	<b>232.0</b>		
<b>WISCONSIN</b>				
Computer Systems	118.9	16.0	10.0%	9.3%
Analog – ESS	235.1	37.2	15.2%	14.1%
Digital – ESS	310.5	15.3	7.2%	5.8%
Circuit – Analog	49.1	13.5	13.5%	13.0%
Circuit – Digital	325.2	27.5	9.3%	7.8%
Underground Metal	209.8	8.1	3.8%	5.2%
Buried Metal	474.9	25.2	5.6%	5.6%
	<b>1,723.5</b>	<b>142.8</b>		
<b>AMERITECH</b>				
Computer Systems	976.5			
Analog – ESS	2,292.0			
Digital – ESS	3,446.7			
Circuit – Analog	538.6			
Circuit – Digital	3,633.3			
Underground Metal	2,279.3			
Buried Metal	3,740.6			
	<b>16,907.0</b>			

NOTE: FR Accruals are based on investment, FCC rates, PUC rates and separations factors.